

14-103 BAKER BOTTS, L.L.P., ET AL. V. ASARCO, L.L.C.

DECISION BELOW: 751 F.3d 291

LOWER COURT CASE NUMBER: 12-40997, 12-40998, 13-40409

QUESTION PRESENTED:

Section 330(a) of the Bankruptcy Code grants discretion to bankruptcy judges to award "reasonable compensation for actual, necessary services rendered by" an attorney or other professional employed by the estate. 11 U.S.C. §330(a)(1). Before any compensation may be awarded, the Code requires professionals to complete a detailed fee application, to which any party in interest may object. It is undisputed that the preparation of such a fee application is compensable. But the circuits have now divided over whether defending it is likewise compensable. The Ninth Circuit, like the vast majority of lower courts, has held that bankruptcy judges may award compensation for the defense of a fee application, at least when the defense is meritorious and successful. It so held in part because categorically denying compensation would undermine the statutory requirement that bankruptcy professionals' compensation not be diluted compared to that of non-bankruptcy practitioners. But the Fifth Circuit, in the judgment below, held that such compensation is never authorized by §330(a).

The question presented is whether §330(a) grants bankruptcy judges discretion to award compensation for the defense of a fee application.

CERT. GRANTED 10/2/2014